



## City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

### Meeting Agenda CITY COUNCIL

*William B. Dunaway, Mayor*  
*Annette Paige Lewis, Ward 1*  
*Griffin "Grif" L. Chalfant, Jr., Ward 2*  
*Holly Marie Walquist, Ward 3*  
*Irvan A. "Van" Pearlberg, Ward 4*  
*Rev. Anthony C. Coleman, Ward 5*  
*James W. King, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, December 9, 2009

7:00 PM

Council Chamber

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#### CALL TO ORDER:

**INVOCATION:** *The Rev. Anthony Coleman, Ward 5*

#### PLEDGE OF ALLEGIANCE:

#### PRESENTATIONS:

##### **20090885 Marietta Citizens' Police Academy Graduates**

Presentation of certificates by Chief Daniel Flynn and Officer Joshua Liedke to graduates of the Marietta Citizens' Police Academy.

Sam Brogdon	Brandon Larson
Ann Marie Burley	Janice Mannes
Charlene Cook	Stan Mannes
Douglas Crooks	Jaquelina Michienzi
Irene D. Dickman	Sharon Muir
Ron Dobos	Lorenzo Pritchard
Susan Hardage	Lisa Rollo
Hugh Humphrey	Dianne Ryan
Douglas Kanter	Terry Ryan
Jennifer LaBrecque	Cheryl Wagner
Matthew LaPlante	Leroy Wagner

#### PROCLAMATIONS:

#### ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

**20091411 Proclamations - Outstanding Service in Recognition of Marietta's 175th Anniversary**

Proclamations are presented to the following for their service and dedication to the citizens' of Marietta for their work on the 175th Anniversary events.

Kim Gresh - 175th Steering Committee Co-chair

Earl Reece - 175th Steering Committee Co-chair

Mary Ansley Southerland - 175th Anniversary Gala on the Square

Connie Sutherland - Gone with the Wind Anniversary and 175th Gala Celebration

Alice Summerour - 175th Concert on the Square

Bill Bruton - Leadership of city staff for 175th Anniversary

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

**MINUTES:****\* 20091326 Regular Meeting - November 9, 2009**

Review and approval of the November 9, 2009 regular meeting minutes.

**\* 20091327 Special Meeting - November 13, 2009**

Review and approval of the November 13, 2009 special called meeting minutes.

**\* 20091365 Special Meeting - November 19, 2009**

Review and approval of the November 19, 2009 special called meeting minutes.

**\* 20091366 Special Meeting - November 25, 2009**

Review and approval of the November 25, 2009 special called meeting minutes.

**MAYOR'S APPOINTMENTS:****CITY COUNCIL APPOINTMENTS:****\* 20091308 Planning Commission Appointment**

Reappointment of Carol Sonnenfeld to the Planning Commission for Ward 3.

- \*      **20091405      Appointments to the Citizens Advisory Committee for Marietta Parks (CACMP)**

Annette Lewis: Betty Hunter  
Holly Walquist: Larry Ceminsky  
Van Pearlberg: Ford Bohannon and James Morris  
Rev. Anthony Coleman: Walter Moon  
Mayor-elect Steve Tumlin: Heath Garrett  
Johnny Sinclair: Mitch Hunter

**ORDINANCES:**

- \*      **20091182      Z2009-17 Northwest Exterminating (Stanford Phillips & Stephen Phillips, Jr.)**

**Z2009-17 [REZONING] NORTHWEST EXTERMINATING (STANFORD PHILLIPS & STEPHEN PHILLIPS, JR.)**

request rezoning for property located in Land Lots 939 and 1006, District 16, Parcels 26 and 32 , 2nd Section, Marietta, Cobb County, Georgia and being known as 830 Kennesaw Avenue from OS & LI [Office Services & Light Industrial (County)] to OS [Office Services (City)]. Ward 4.

*Planning Commission recommends approval      Vote:    6 - 0 - 0*

*Stipulation: n/a*

*PUBLIC HEARING (all parties are sworn in)*

- \*      **20091183      A2009-05 Northwest Exterminating (Stanford Phillips & Stephen Phillips, Jr.)**

**A2009-05 [ANNEXATION] NORTHWEST EXTERMINATING (STANFORD PHILLIPS & STEPHEN PHILLIPS, JR.)**

request annexation for property located in Land Lots 939 and 1006, District 16, Parcels 26 and 32 and being known as 830 Kennesaw Avenue, 2nd Section, Cobb County, Georgia consisting of 2.189 acres. Ward 4.

*Planning Commission recommends approval      Vote: 6 - 0 - 0*

*Stipulation: n/a*

*PUBLIC HEARING (all parties are sworn in)*

- \*      **20091184      CA2009-07 Northwest Exterminating (Stanford Phillips & Stephen Phillips, Jr.) 830 Kennesaw Avenue**

**CA2009-07 [CODE AMENDMENT] NORTHWEST EXTERMINATING (STANFORD PHILLIPS & STEPHEN PHILLIPS, JR.)** in conjunction with the requested annexation of property located in Land Lots 939 and 1006, District 16, Parcels 26 and 32, 2nd Section, Marietta, Cobb County, Georgia, and being known as 830 Kennesaw Avenue, the City of Marietta proposes to designate the Future Land Use of said property as CSI (Community Services & Institutional). Ward 4.

*Planning Commission recommends Approval      Vote: 6 - 0 - 0*

*Motion: Mr. Gillis made a motion to approve the proposal made by the City of Marietta to designate the Future Land Use as CSI (Community Services & Institutional) seconded by Mr. Carter.*

*Stipulation: n/a*

*PUBLIC HEARING (all parties are sworn in)*

- \*      **20091338      Code Enforcement - 1170 Booth Road**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1170 Booth Road.

Listed Owner: Chalmers Gerard and Bynums Kenneth

Repeat Violation History: ( 2 ) previous cases since April 8, 2008.

Certified mail receipt not received as of 11/30/09.

Taxes paid: Unpaid; owes \$2,589.95

**PUBLIC HEARING REQUIRED**

Philip M. Goldstein abstaining

- \*      **20091343      Code Enforcement - 369 E. Post Oak Crossing**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 369 E. Post Oak Crossing.

Listed Owner: Marsella Imonti & Adri Brito

Repeat Violation History: None

Certified mail receipt not received as of 11-23-09.

Taxes paid: Unpaid, owes \$843.53 for 2009.

**PUBLIC HEARING REQUIRED**

Philip M. Goldstein abstaining

## **RESOLUTIONS:**

**CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:** *Gone with the Wind Event - Video***MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson****\* 20091246 Housing Choice Voucher Program**

City of Marietta Housing Choice Voucher Program Administrative Plan  
Revision 2010

**\* 20091302 Marietta Growth Fund Grant Award**

Approval of an ordinance amending the FY10 Marietta Growth Fund budget to receive and appropriate federal grant funds in order to award a grant to Summit Industries.

**\* 20091303 Opportunity Zones**

Motion to accept the official designation of three Opportunity Zones in the City of Marietta as approved by the Georgia Department of Community Affairs on November 20, 2009 and as indicated on the attached three maps labeled: "Official Opportunity Zone Map for- Marietta Zone 1, Official Opportunity Zone Map for- Marietta Zone 2 and Official Opportunity Zone Map for- Marietta Zone 3".

**2. Finance/Investment: Annette Lewis, Chairperson****\* 20091180 Donation from Mt. Paran Christian School**

Approval of an ordinance amending the Fiscal Year 2010 General Fund budget to receive and appropriate a donation from Mt. Paran Christian School to support the fire museum.

- \*      **20091320      Energy Efficiency Conservation Block Grant (EECBG) from U.S. Dept of Energy**

Approval of an ordinance amending the FY10 Grant Fund Budget to receive a grant from the Department of Energy for \$785,500 for energy efficiency projects throughout the city.

- \*      **20091321      Finance/Tax division expenses increased from collecting back taxes**

Request to approve ordinance amending the FY10 budget to appropriate \$15,000 from increase of reimbursement revenue from back taxes to cover cost of collection agency expenses.

### **3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

- \*      **20091268      2010 Meeting Calendar**

A Resolution establishing the City Council meeting calendar for 2010.

- \*      **20091309      Public Art Donation Agreement**

Motion approving the attached Public Art Donation Agreement between the Kiwanis Club of Marietta and the City of Marietta.

- \*      **20091310      Kennesaw Avenue Historic District**

Motion to authorize advertisement for a public hearing for the purpose of designating the Kennesaw Avenue Historic District as a locally designated historic district. The public hearing is to be held at the regularly scheduled City Council meeting on Wednesday January 13, 2010.

- \*      **20091312      2010 Legislative Agenda**

Motion approving the attached 2010 Legislative Agenda.

### **4. Parks, Recreation and Tourism: Holly Walquist, Chairperson**

### **5. Personnel/Insurance: Van Pearlberg, Chairperson**

### **6. Public Safety Committee: Anthony Coleman, Chairperson**

\*      **20091221    Standard Operating Procedures**

Motion approving revisions to the following Standard Operating Procedures for the Marietta Police Department: A030 Code of Conduct, A045 Time Control Procedures, A060 Evidence & Property Maintenance, A085 Promotions, S020 Canine Program.

**7. Public Works Committee: Jim King, Chairperson**

\*      **20091254    Roswell Street Improvements Victory Drive to Cobb Parkway Project**

Motion authorizing aerial utility facilities to cross Cobb Parkway at Roswell Street as part of the Roswell Street Median and Sidewalk Project between Victory Drive and Cobb Parkway. The location of the approved aerial crossing is as shown on the attached drawing and is labeled as Option 2 utilizing a wood pole.

\*      **20091256    Kennesaw to Chattahoochee Multi-Use Trail**

Motion approving a Preliminary Engineering Agreement with CSX Transportation as per attached.

\*      **20091257    No parking zone at Barrington Hill Subdivision**

Motion approving request by Council Member Pearlberg for a no commercial vehicle parking zone in the cul-de-sac at the end of Barrington Overlook.

\*      **20091261    Union Chapel Indemnification Agreement**

Motion to approve request to allow parking to remain on city property as identified in attached Indemnification Agreement.

\*      **20091306    Powder Springs Street SPLOST Improvement Project**

Motion approving a revised scope to construct improvements at the intersection of South Marietta Parkway and Whitlock Avenue as shown on the attached concept drawing.

\*      **20090364    1994 SPLOST Reallocation**

Motion to reallocate 1994 SPLOST funds as shown on the attached reallocation table.

**SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:****OTHER BUSINESS:****\*      20091345    Intergovernmental Agreement**

Motion approving an Intergovernmental Agreement between the City of Marietta and Cobb Housing, Inc. and Community Block Grant Development as requested by Council Members Coleman and Walquist.

**\*      20091407    Property Condemnation - 585 Franklin Road**

Motion to authorize the acquisition of property owned by Nazareth Plaza, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**\*      20091408    Property Condemnation - 690 Sandtown Road**

Motion to authorize the acquisition of property owned by YNH Properties on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.



\*      **20091414      Right of way acquisitions and easements - 107 Waverly Way**

**Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of Atlanta Street Improvements**

**107 Waverly Way** in exchange for \$30,000 from Synovus Trust Co., N.A., et al

**107 Waverly Way** in exchange for \$3,000 from Sherwin Williams

*Council member Goldstein disclosed that he and/or an entity that he owns, owns property on Waverly Way.*

\*      **20091413      Right of way acquisitions and easements - 528 N. Marietta Parkway**

Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of Fairground Street Improvements

528 North Marietta Parkway in exchange for \$74,100 from Covenant Ministries.

Stipulations:

1. The City will ensure that a temporary fence is maintained between the church facilities and construction activities during construction.
2. The City will construct a permanent decorative wall with ornamental fence similar to walls constructed along Roswell Street as a barrier between the church facilities and Fairground Street.
3. The City will only perform construction activities along the frontage of one of the two properties held by the owner at a time, the other property being 170 North Fairground Street

\*      **20091406      Right of way acquisitions and easements - 404, 406, 414, 420 and 428 North Fairground Street, 454 North Marietta Parkway, 392 North Fairground Street**

Motion authorizing acquisition of right-of-way and easements within the following properties for the purpose of Fairground Street Improvements

**400/406/414/420/428 North Fairground Street** in exchange for \$19,100 from Georgia Transmission Corporation.

**454 North Marietta Parkway** in exchange for \$198,324 from Turner Chapel AME Church.

Stipulations:

- 1) A construction schedule shall be provided to the owner as soon as possible.
- 2) The contractor shall protect in place the large specimen oak tree on the corner of Fairground Street and North Marietta Parkway and shall provide a written description of protective measures to the owner in advance of construction.
- 3) The site shall be left each day in a safe, neat and orderly condition and free from obstructions.
- 4) Access to the parking lots shall not be obstructed during service or meeting times and vehicular access to the property shall be maintained at all times.

**392 North Fairground Street** in exchange for \$2,500 from Louie H. and Melba J. Simmons.

\*      **20091409      Right of way acquisitions and easements - 605 Franklin Road**

Motion to authorize acquisition of right-of-way and easements within the following properties for the purpose of Franklin Road Improvements.

**605 Franklin Road** in exchange for \$55,000 from HWSM, LLC.

Stipulations:

1. Ingress and egress shall be maintained throughout the project.
2. No equipment shall be stored on the property.
3. Upon completion of the project the property shall be cleaned and left in the same or better condition as before commencement of construction.

- \*      **20091410      Right of way acquisition and easements - 932 Roswell Street and 251 Roswell Street.**

Motion to authorize acquisition of right-of-way and easements within the following properties for the purpose of Roswell Street Improvements

**932 Roswell Street** in exchange for \$248,000 from Bill Spinks

**251 Roswell Street** in exchange for \$4,700 from Bill Spinks

- \*      **20091412      Property donations - 123 Whitlock Drive, 578 Walnut Drive, 102 S. Fairground, 360 N. Fairground, and 162 & 166 Anderson Street**

Motion to accept the following donations of properties:

Acquisition of Driveway easements and Temporary Construction Easements for the purpose of the 2009 City of Marietta Sidewalks Project:

**123 Whitlock Drive** from Mark E. and Elisabeth A. Denney.

Stipulations: If fence is disturbed, to be replaced (or moved) with like kind materials. City to relocate if necessary.

Acquisition of Driveway easements and Temporary Construction Easements for the purpose of the 2009 City of Marietta Sidewalks Project:

**578 Walnut Drive** from Elba N. Pagan and Robert H. Leedy.

Stipulations: If sprinkler system is damaged during construction to be repaired or replaced by City of Marietta at their expense.

Acquisition of Driveway Easements and Temporary Construction Easement for the purpose of the Fairground Street Improvements Projects:

**102 S. Fairground** from Magurite D. and Tony M. Little.

Stipulations: Access to property will be maintained during construction.

Acquisition of Driveway Easements and Temporary Construction Easement for the purpose of the Fairground Street Improvements Projects:

**360 N. Fairground** from Michael W. Nelson.

Acquisition of Temporary Construction Easements at 162 & 166 Anderson Street for the purpose of the Roswell Street Streetscapes Project:

**162 & 166 Anderson Street** from Lawyers Realty, LLP.

\*      **20091329    BLW Actions of December 7, 2009**

Review and approval of the December 7, 2009 actions and minutes of the Marietta Board of Lights and Water, with the exception of agenda item 20091360.

*Council members Coleman and Goldstein opposed to agenda item 20091360.*

**ADJOURNMENT:**